



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/981,459	10/16/2001	Michael H. D'Amico	13251US01	5919
7590	08/11/2004			
Ronald E. Larson McAndrews, Held & Malloy, Ltd. 34th Floor 500 W. Madison Street Chicago, IL 60661			EXAMINER HARRISON, JESSICA	
			ART UNIT 3714	PAPER NUMBER

DATE MAILED: 08/11/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

YW

Advisory Action	Application No. 09/981,459	Applicant(s) D'AMICO ET AL.	
	Examiner Jessica J. Harrison	Art Unit 3714	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED _____ FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

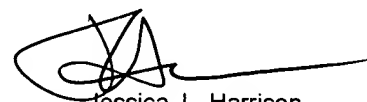
Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: as set forth in final rejection.

Claim(s) withdrawn from consideration: _____.

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☒ Other: see attachment.


 Jessica J. Harrison
 Primary Examiner
 Art Unit: 3714

Applicant proposes to delete some of the alleged 'new matter' entered into the specification with the prior amendment. This amendment would be entered upon appeal in that it appears that applicant agrees this language is new matter and removing it from the claims would materially reduce issues considered upon appeal. Applicant does not, however, propose to remove all of the alleged new matter delineated in the rejection of record and applicant's arguments in support for the "required input data" are not commensurate in scope with the claimed language. Applicant points out that data may be required by the game machines yet applicant's claims recite storing required input data in a database. As previously outlined, applicant has not disclosed that any particular data is REQUIRED as input.

Applicant's further arguments have been considered and are not persuasive. As after Final Rejection is not the appropriate forum for prosecution of an application, the examiner will not treat applicant's arguments in exhaustive detail herein. The examiner offers that in general applicant's arguments are not commensurate in scope with applicant's claim language. The examiner agrees that there is nothing inherently wrong with defining some part of an invention in functional terms. However, the examiner notes the guidance of MPEP 2114 for support of the examiner's position regarding the functional language failing to convey patentability over the structure of the prior art absent particular means for accomplishing the


function. Applicant is also referenced to MPEP 2106 for guidance in claiming computer related inventions.

Likewise, Applicant is further referenced to the Nevada Gaming Commission's Technical Standard 2, section 2.040 at least regarding the requirement for meters in ALL gaming machines. Notwithstanding the fact that applicant claims a system and utilizes the open ended term 'comprising' thus applicant's arguments for the meters being contained within the system equate to meeting applicant's claimed language, the examiner points to a specific reference regarding the meters being contained within each machine for applicant's review. Numerous other sections of the Regulations and Standards for at least the state of Nevada outline both functional and technical requirements for gaming devices, and it is urged applicant review the regulatory requirements. They may easily be found at <http://gaming.nv.gov/> or at <http://www.gaming-ip.com/Links.htm>.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jessica J. Harrison whose telephone number is 703-308-2217. The examiner can normally be reached on M-F during business hours.

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Jessica J. Harrison
Primary Examiner
Art Unit 3714

jjh